THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.7376 of 2007

Dated:12.04.2007

Between:

G.S.S.Kameswarudu.

… Petitioner

AND

State of A.P., and another.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.7376 of 2007

ORDER:

The petitioner purchased the land admeasuring Acs.5.00 in Survey No.64/10 situated at Venkatapur Village of Kohir Mandal in Medak District, from Mohd.Shafiuddin, who was allegedly ex-serviceman. The petitioner contends that the land assigned to an ex-serviceman is alienable after lapse of ten years as per the orders of the Government in G.O.Ms.No.1117, dated 11.11.1993. Be that as it is, the petitioner dug a bore-well and cultivating the land. The second respondent herein, namely, Tahasilar, Kohir Mandal, issued a show cause notice in Form-II under Rule 3 of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Rules, 2007 (for short 'the Rules'), calling upon the petitioner to show cause as to why he should not be summarily evicted from the assigned land as he was found to be transferee of the assigned land in contravention of Section 3(2) of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977. The petitioner allegedly submitted explanation on 30.03.2007. Nonetheless, he rushed to this Court alleging that as per the new statutory regime, when once the authority comes to the conclusion that a person is in possession/occupation of assigned land, without further notice, the authority shall direct another authority to resume the land, in which event, the petitioner would be deprived of the property.

Learned Counsel for the petitioner placed strong reliance on Rule 3 of the Rules, which reads as under.

> **3.Procedure for eviction of the transferee and taking possession and restoration of assigned lands:-** The District Collector or the Authorised Officer shall, before taking action under

clauses (a) and (b) of sub-section (1) of Section 4 of the Act, issue notices in Form No.I and Form II to the persons who have transferred and also to the persons who have acquired any assigned land in contravention of the provisions of sub-section (2) of Section 3 of the Act. The notices shall be served by delivering a coy on transferor and transferee or some adult male member of the family of such transferor or transferee at their usual place of above or to their authorized agent or by affixing a coy thereof at some conspicuous place of their last known place of residence or on some conspicuous part of the assigned land. After the expiry of (fifteen) 15 days specified in the notice, the District Collector or the Authorised Officer shall consider the representation, if any, received with reference to the said notice and pass such orders as he thinks fit and proper. If it is held that the provisions of sub-sections (1) and (2) of Section 3 of the Act, have been contravened in respect of any assigned land, a copy of the order shall be communicated to the Village Officer concerned under whose territorial jurisdiction the land is situated for taking possession of the land and thereupon the land shall be disposed of in accordance with the provisions of Section 4 of the Act.

The Rule as well as notice in Form-II does not even remotely suggest that the issue of show cause notice and Form-II is an empty formality. The issue has to be objectively considered by the notice issuing authority. In plain terms, after receiving the explanation submitted by the occupant of the land, which is allegedly assigned to someone else, with reference to the submissions contained in the explanation, the Mandal Revenue Officer has to necessarily pass an order. This observation would dispel any doubt in the mind of the petitioner.

As the Writ Petition is filed against a show cause notice against which ordinarily a Petition would not lie, the Writ Petition, with the above observations, is accordingly dismissed. No costs.

_____

(**V.V.S.RAO, J**)

12.04.2007
vs